



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

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### **VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO DYNAMIC AVIATION GROUP, INC. EPA ID No. VA0000980524 AND VAR000531442**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Dynamic Aviation Group, Inc., regarding the Dynamic Aviation Group, Inc. facility in Bridgewater, VA for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Building 7" means the Dynamic leased building located at 1675 Airport Road in Bridgewater, VA.
3. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Dynamic" means Dynamic Aviation Group, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Dynamic is a "person" within the meaning of Va. Code § 10.1-1400.
8. "Property" means the property on which Dynamic's operations take place, including 1402 Airport Road, 7487 Kiser Road, and 1675 Airport Road in Bridgewater, Virginia.
9. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
10. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
11. "Logistics Center" means the Dynamic building located at 7487 Kiser Road in Bridgewater, Virginia.
12. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. See 40 CFR § 262.34(a)-(b) and (g)-(l).
13. "Airport" means Dynamic's operations located at 1402 Airport Road in Bridgewater, Virginia.
14. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
15. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
16. "RCRA" means the Resource Conservation and Recovery Act, enacted in 1976.
17. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

18. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
19. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. See 40 CFR § 262.34(d)-(f).
20. "Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of 40 CFR § 273: Batteries as described in §273.2; Pesticides as described in §273.3; Mercury-containing equipment as described in §273.4 and Lamps as described in §273.5.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
24. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Dynamic owns and operates several buildings in Bridgewater, VA that house various operations related to aircraft maintenance and refurbishing. These operations are subject to the Virginia Waste Management Act and the Regulations.
2. Dynamic submitted a RCRA Subtitle C Site Identification Form, received December 13, 1994, that gave notice of regulated waste activity at the Airport as a CESQG of hazardous waste. In a subsequent form dated May 23, 2002, Dynamic gave notice of a change in status and registered as a Small Quantity Generator (SQG) of hazardous waste. In a form dated September 6, 2016, Dynamic gave notice of the facility's status as an episodic LQG. In a subsequent form dated November 15, 2016, Dynamic documented the return of the facility to SQG status. Dynamic was issued EPA ID No. VA0000980524 for the Airport. Dynamic is a small quantity handler of Universal Waste.
3. On August 8, 2016, DEQ registered Building 7 as a non-notifier of hazardous waste and issued EPA ID No. VAR000531442 for Building 7.
4. The Logistics Center is a conditionally exempt small quantity generator (CESQG) of hazardous waste. DEQ filed an application for an EPA ID number establishing CESQG status.

5. The operations at the Airport generate the following solid wastes which are also hazardous wastes. Each waste is listed with associated waste codes as described in 40 CFR § 261.21, 261.24 and 261.31. Hazardous wastes, including those listed below, are properly labelled and accumulated in approved containers at the Airport after generation.

Ignitable Waste: D001  
Reactive Waste: D003  
Corrosive Waste: D008  
Tetrachloroethylene: D039  
Trichloroethylene: D040  
Spent Halogenated Solvents: F001, F002  
Spent non-halogenated solvents: F003, F005

6. On June 20, 2016, July 13, 2016, and July 28, 2016, Department staff inspected the Property for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

- a. There were six drums located on spill containment pallets outside in front of Building 7. One drum was labeled hazardous waste and the other five drums were labeled as used oil, with no other information. At the time, available Dynamic staff could not confirm the contents of the drums, when or where the drums were generated, or how they arrived at Building 7.

40 CFR 262.34(d)(4) as referenced in 9 VAC 20-60-262 requires that generators label each container with the words "Hazardous Waste" while being accumulated on-site.

- b. One of the six drums located outside of Building 7 had a date of May 23, 2016, but did not specify whether this was accumulation start date or finish date. The other five drums were labeled as used oil, with no other information. Dynamic staff could not confirm when or where the drums were generated, or how they arrived at Building 7.

40 CFR 262.34(d)(4) as referenced in 9 VAC 20-60-262 requires that generators date each container when accumulation begins, and that the date is clearly marked and visible for inspection on each container.

- c. Dynamic did not notify DEQ of the location of the accumulation area located at Building 7. Based on the presence of the 6 drums, it appears that Dynamic has transported waste to, and has operated a hazardous waste accumulation area at this site, that is not a contiguous property to the physical address of the EPA ID number VA0000980524 associated with Dynamic's Main Facility. Building 7 did not have its own EPA ID number.

9 VAC 20-60-262(B)(4) requires that a generator notify DEQ of each location where he accumulates hazardous waste.

40 CFR 262.12(a) as referenced in 9 VAC 20-60-262 states, "a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number..."

- d. Because Building 7 was not an area where hazardous waste was typically accumulated, weekly inspections for leaks and deterioration of containers in the Building 7 accumulation area were not being performed.

40 CFR 265.174 as required by 40 CFR 262.34(d)(2) and as referenced in 9 VAC 20-60-262 and 265 of the VHWMR requires that "at least weekly, the owner or operator must inspect areas where containers are stored...The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors."

- e. One properly stored and approved box containing fluorescent light bulbs was not labeled with the words "Universal Waste—Lamp(s)", or "Waste Lamp(s)" or "Used Lamp(s)."

40 CFR 273.14(E) as referenced in 9 VAC 20-60-273 requires that the containers be labeled with the words "Universal Waste—Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)".

- f. Dynamic could not demonstrate the length of time the box of fluorescent bulbs had been accumulated from the date they became a waste.

40 CFR 273.15(c)(2) as referenced in 9 VAC 20-60-273 requires that "a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received."

- g. Due to the presence of the 6 drums, which further testing by Dynamic Aviation determined to contain materials that would be classified as hazardous waste, Dynamic generated LQG amounts of hazardous waste in 2016 and had not paid an annual fee or notified DEQ of its change in status.

40 CFR 262.34(d) as referenced in 9 VAC 20-60-262 states, "a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status."

9 VAC 20-60-1283(E) requires that each episodic large quantity generator of hazardous waste shall be assessed the full annual fee for any year in which the

generator was a large quantity generator. The fees are shown in 9 VAC 20-60-1285(F) and are to be paid in accordance with 9 VAC 20-60-1284.

9 VAC 20-60-315(D) requires that anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.

- h. At the Logistics Center, 3 used 15 ounce aerosol cans of LPS Presolve, a citrus degreaser, were disposed of in general municipal solid waste containers (trash cans). Based on the location of the aerosol cans, DEQ believes the citrus degreaser to have been used to clean parts and used over a utility sink that does not drain to a permitted wastewater treatment facility, but does drain to an oil-water separator prior to discharge. LPS Presolve is assigned hazardous waste codes D001 and D003. The Logistics Center is not serviced by a municipal sewer.

Va. Code §10.1-1426(A) states, "No person shall store, provide treatment for, or dispose of a hazardous waste without a permit from the Director."

40 CFR 270.1(c) as referenced in 9 VAC 20-60-270 states that a person is required to have a permit from the director to treat, store, or dispose of hazardous waste.

40 CFR 262.11 as referenced in 9 VAC 20-60-262 states that a person who generates a solid waste must determine if it is a hazardous waste.

40 CFR 261.5(g)(3) as referenced in 9 VAC 20-60-261 states that a generator must dispose of its waste in a permitted facility.

40 CFR 268.7(a) as referenced in 9 VAC 20-60-268 states, "a generator of hazardous waste must determine if the waste has to be treated before it can be land disposed."

- i. Numerous solid waste piles were observed at the Main Facility along an approximately three acre area at the end of Sand Pit Lane. Although some piles consisted primarily of fill dirt from construction projects on site, some of the piles appeared to also include a small quantity of household waste, wooden furniture, construction debris, and other various plastic wastes (i.e., water bottles).  
Va. Code §10.1-1408.1(A) states, "No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste without a permit from the Director."

9 VAC 20-81-40(A) states, "No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director."

9 VAC 20-81-40(B) states, "No person shall allow waste to be disposed of or otherwise managed on his property except in compliance with this chapter."

7. On June 30, 2016 and August 31, 2016, based on the inspections and follow-up information, the Department issued Notice of Violation No. 16-06-VRO-007 and No. W2-16-08-COO-002 to Dynamic for the violations described in paragraph C(6), above.
8. On July 22, 2016, Dynamic submitted a letter to DEQ stating that use of the citrus degreaser (and in fact all parts cleaning operations) ceased at the Logistics Center on July 18, 2016, correcting violation C(6)(h). DEQ met with Dynamic on April 29, 2017 and requested an evaluation of the environmental risk, if any, posed by the potential discharge from the sink. Dynamic provided a Work Plan to DEQ on May 12, 2017 to characterize the point of discharge from the sink. The Work Plan was approved by DEQ on May 19, 2017. On June 23, 2017, Dynamic submitted a report describing the results of the characterization. The laboratory analysis revealed no detections of petroleum hydrocarbons above their respective reporting detection criteria in any sample collected. Dynamic's consultant also conducted a sensitive receptor survey within an 800-foot radius of the outfall. While potential receptors were identified, no source of contamination or reasonable pathway connection was identified to impact the receptors.
9. On September 6, 2016, Dynamic submitted Form 8700-12 notifying DEQ of its episodic LQG status at 1402 Airport Road. Dynamic has paid the annual fee. On November 15, 2016, Dynamic submitted Form 8700-12 documenting the return to SQG status. These actions correct violation C(6)(g).
10. In a letter dated September 6, 2016, Dynamic provided additional information about the 6 barrels that were located at Building 7. After testing the barrels, Dynamic properly disposed of all of the barrels as hazardous waste and submitted documentation to DEQ, correcting violations C(6)(b) and (c).
11. Dynamic responded to Requests for Information on September 22, 2016, October 21, 2016, and January 19, 2017.
12. On March 9, 2017 and April 28, 2017, Department staff met with representatives of Dynamic to discuss the violations.
13. Based on the results of the June 20, 2016, July 13, 2016, and July 28, 2016 inspections, the March 9, 2017 and April 28, 2017 meetings, and the documentation submitted on July 22, 2016, September 6, 2016, September 22, 2016, October 21, 2016, and January 19, 2017, the Board concludes that Dynamic has violated Va. Code §10.1-1426(A), 40 CFR 265.174, 40 CFR 262.34(d)(4), 40 CFR 262.12(a), 40 CFR 273.14(E), 40 CFR 273.15(c)(2), 40 CFR 262.34(d), 9 VAC 20-60-262(B)(4), 9 VAC 20-60-1283(E), 9 VAC 20-60-315(D), 9 VAC 20-81-40(A), and 9 VAC 20-81-40(B) as described in paragraph C(6), above.

14. On March 23, 2017, Dynamic submitted receipts from the removal of wood and other debris from the solid waste piles referenced in C(6)(i) above. The removal of the remaining solid waste described in C(6)(i) will be addressed in a separate Consent Order issued by the State Water Control Board.
15. On May 13, 2017, Dynamic submitted Form 8700-12 notifying as a non-generator of hazardous waste at Building 7. This notification negates the need to correct violations C(6)(a) and (d).
16. On June 23, 2017, Dynamic submitted documentation verifying that the violations described in paragraphs C(6)(e) and (f) above have been corrected.
17. To date, Dynamic Aviation has spent \$119,160.46 to hire consultants to perform a comprehensive environmental assessment, take corrective actions, comply with DEQ information requests, and complete the characterization work.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Dynamic, and Dynamic agrees to pay a civil charge of \$75,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Dynamic shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dynamic shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Dynamic for good cause shown by Dynamic, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action



authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Dynamic admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies the findings of fact, and conclusions of law contained herein.
4. Dynamic consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dynamic declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dynamic to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dynamic shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Dynamic. Nevertheless, Dynamic agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Dynamic has completed all of the requirements of the Order;
  - b. Dynamic petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dynamic.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dynamic from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Dynamic and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Dynamic certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dynamic to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dynamic.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dynamic voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 22 day of January, 201<sup>8</sup>7.

  
Jefferson Reynolds, Enforcement Director  
Department of Environmental Quality

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Dynamic Aviation Group, Inc. voluntarily agrees to the issuance of this Order.

Date: 12-1-2017 By: Shannon Wagner, Chief Operating Officer  
(Person) (Title)  
Dynamic Aviation Group, Inc.

Commonwealth of Virginia  
City/County of Rockingham

The foregoing document was signed and acknowledged before me this 1<sup>st</sup> day of  
December, 2017, by Shannon Wagner who is  
Chief Operating Officer of Dynamic Aviation Group, Inc., on behalf of the  
corporation.

Benita Azpeitia  
Notary Public

7508057  
Registration No.

My commission expires: August 31, 2019

Notary seal:

